

Central Intelligence Agency



Washington, D.C. 20505

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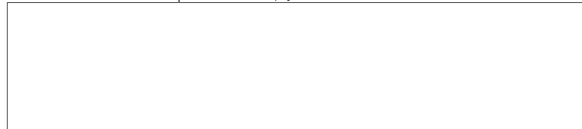
Mr. James C. Murr  
Assistant Director  
Legislative Reference Division  
Office of Management and Budget  
Washington, D.C. 20503

Dear Mr. Murr:

Enclosed is a draft report on S. 1043, the "Aviation and Terrorism Commission Act of 1989."

We would appreciate your advice as to whether there is any objection from the standpoint of the Administration's program to the submission of this report.

Sincerely,



E. Norbert Garrett  
Director of Congressional Affairs

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Enclosure

OCA 1854-89

Mr. James C. Murr

OCA/LEG/[REDACTED] (7 June 89)

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Central Intelligence Agency



Washington, D.C. 20505

**DRAFT**

The Honorable Ernest F. Hollings  
Chairman  
Committee on Commerce, Science and Transportation  
United States Senate  
Washington, D.C. 20510

Dear Mr. Chairman:

I write to present the views of the Central Intelligence Agency on S. 1043, the "Aviation and Terrorism Commission Act of 1989," introduced on May 18, 1989 by Senators Ford, Lautenberg and Mitchell and referred to the Committee on Commerce, Science and Transportation.

For the reasons set forth below, the Agency cannot support enactment of this legislation.

S. 1043 would establish a Commission, composed of representatives from the Legislative and Executive Branches (to include a representative from the Intelligence Community) and the private sector, to investigate the crash of Pan Am Flight #103 (21 December 1983) and the destruction of Korean Air Lines Flight 007 (31 August 1983). The Commission would have nine months to complete its investigation and issue a final report. During its investigation, the Commission could request from federal agencies any relevant information, including classified information, subject to certain conditions. Among other subjects, the Commission would be required to assess "the coordination among Federal agencies of aviation security and related counterterrorism procedures and practices, including procedures and practices involving the gathering, assessment and distribution of intelligence."

The Agency is concerned about the Commission being given, in effect, a mandate to judge the sufficiency of counterterrorism intelligence collection, assessment and distribution efforts. As the head of the Intelligence Community, the Director of Central Intelligence is continually evaluating the sufficiency of all

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The Honorable Ernest F. Hollings

United States Government intelligence efforts. These judgments obviously require intelligence expertise as well as knowledge of both the scope and priorities of the entire national intelligence mission and the resources available to support that mission. We question whether the Commission would be equipped, given its short time frame and otherwise broad responsibilities, to make a truly meaningful assessment and whether, in any event, the sensitive intelligence information necessary to make such an assessment should be disseminated outside the Intelligence Community.

S. 1045 also raises concerns with respect to the ongoing Pan Am 103 investigations. As you know, the Pan Am 103 crash is already being investigated by a number of federal agencies in cooperation with various foreign governments. The Commission would unnecessarily duplicate these investigations and would likely interfere with them. Moreover, it would place additional administrative burdens on those federal agencies that are already striving to cooperate with these investigations while simultaneously working to improve airline security and combat terrorism.

Expansion of the Commission's mandate to include the destruction of Korean Airlines Flight #007 is also of concern. There appears to be no good reason to reopen the KAL 007 incident or to link these two disparate incidents. To do so at this time could raise significant foreign policy concerns, although we defer to the Department of State in this regard.

Despite the information protection provisions contained in the legislation, there remains the risk that sensitive counterterrorism intelligence sources and methods could be inadvertently disclosed in the course of the Commission's investigation. Moreover, any interaction with the Commission on demands for sensitive intelligence source and method information would likely require the involvement of those personnel who directly support the counterterrorism effort, thereby detracting from their ability to support that effort.

We also note that the Commission's mandate appears to duplicate the oversight functions of the President's Foreign Intelligence Advisory Board as well as the intelligence oversight committees of the Congress.

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The Honorable Ernest F. Hollings

Lastly, we question the propriety of creating commissions composed of members from both Branches, although we defer to the Department of Justice in this regard.

For these reasons, we cannot support enactment of this legislation.

The Office of Management and Budget advises that there is no objection to the submission of this report from the standpoint of the Administration.

Sincerely,

E. Norbert Garrett  
Director of Congressional Affairs

cc: The Honorable John C. Danforth, Committee on Commerce,  
Science and Transportation  
The Honorable David Boren, Chairman, Select Committee on  
Intelligence  
The Honorable William S. Cohen, Vice Chairman, Select  
Committee on Intelligence

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S 5642

## CONGRESSIONAL RECORD — SENATE

May 18, 1989

Effective date: Section 1 applies to all transfers occurring after December 31, 1986.

Section 3: Provides for an exclusion of discharge of indebtedness income (ordinary income) for farmers who meet the following conditions, as an alternative to the 50 percent farm income test which now provides a limited exclusion for solvent taxpayers under section 108(g):

The exclusion is limited to \$350,000 over the taxpayer's lifetime (counting any excluded gains under Section 1);

The taxpayer's modified adjusted gross income in the year of the discharge is less than 100 percent of the national median adjusted gross income;

At least 50 percent of the taxpayer's gross receipts in at least 6 of the last 10 years is attributable to farming or the lease or sale of assets used in the trade or business of farming and the taxpayer must have materially participated in the trade or business of farming;

The taxpayer's debt of equity ratio both before and after the transfer is at least 70 percent;

The taxpayer's equity in all post-transfer property is less than \$25,000 or 150 percent of tax liability, whichever is greater.

Definitions: same as for Section 1.

Effective date: Section 2 applies to all transfers and restructuring occurring after December 31, 1986.

NATIONAL SAVE THE  
FAMILY FARM COALITION,  
Washington, DC, May 1, 1989.

HON. KENT CONRAD,  
U.S. Senate, Washington, DC.

DEAR SENATOR CONRAD: On behalf of the Credit Committee of the National Family Farm Coalition representing over 40 organizations in 35 states, I would like to express our strong support for the Farmer Tax Reform Act of 1989 and to thank you for your leadership on this most important issue. The hard-fought victory for families in the Agricultural Credit Act of 1987 providing sensible debt restructuring when it is the least cost alternative will be a hollow victory if the FmHA debt is replaced by a lifetime IRS debt.

As family farmers struggling to save our farming operations through the new debt restructuring options in the Agricultural Credit Act and fair treatment under Chapter 12 bankruptcy, we view this new legislation as a top priority to achieve the goal of enabling family farmers to stay on their farms and in their rural communities.

As you are most aware Senator Conrad, the past six months have been a period of uncertainty for tens of thousands of family farmers struggling to work through the FmHA debt restructuring process. For thousands more, the Farm Credit Services have not provided farmers with the kind of debt restructuring many of us had hoped would be the outcome of the Ag Credit Act. Some farmers have received the good news that they are eligible for a debt-write down or other option as it is the least cost alternative to the federal government in resolving their debt crisis. For these farmers, the tax implications of debt-write down or past debt settlements with FmHA are unclear.

We look forward to working with you to ensure passage of this important legislation. To farmers planting this Spring, your leadership and action is a sign that there is a commitment to seeing the Agricultural Credit Act really help farmers stay on their farms and in their rural communities. We thank you for your support.

Sincerely,

BENNY BUNTING,  
Chair, NFFC Credit Committee.

By Mr. DURENBERGER:

S. 1042. A bill to suspend temporarily the duty on certain in-line roller skate boots; to the Committee on Finance.

#### SUSPENSION OF DUTY ON IN-LINE ROLLER SKATE BOOTS

● Mr. DURENBERGER. Mr. President, I rise to introduce legislation that would temporarily suspend tariffs on certain boots that are incorporated into in-line roller skates manufactured and assembled in the United States. This legislation would help overcome an unfair competitive advantage that importers of fully assembled roller skates currently have against domestic roller skate manufacturers.

Rollerblade, Inc., a Minnesota corporation, manufactures in-line roller skates. Some of the roller skate components used by this company are domestically sourced, and others are imported from Italy, Austria, and Taiwan.

Currently, skate boots imported for the roller skate carry a 6-percent duty. These skate boots are not useable in the form in which they enter the country. Instead, they must go through a manufacturing process to have "wheel supports" attached.

Rollerblade's domestic competitors import finished roller skates from Taiwan. As a finished product, these roller skates enter the United States duty free. This clearly enables domestic competitors who import finished products to gain an unfair, and unintended, competitive advantage against a company that is creating manufacturing jobs in the United States. That makes no sense.

My legislation would redress this unfair competitive advantage by reclassifying these boots as duty-free roller skate parts.

Mr. President, I ask unanimous consent that the full text of the legislation I am introducing be reprinted in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1042

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new subheading:

<p>9902.64.02 Skating boots (provided for in subheading 6402.19.10) actually used in the manufacture of roller skates with in-line roller skates attached.</p>	<p>Free ... No change ... No change ... On or before 12/31/92.</p>
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SEC. 2. (a) The amendment made by the first section of this Act applies with respect to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of enactment of this Act.

(b) Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of

law, upon proper request filed with the appropriate customs officer within 90 days after the 15th day after the date of enactment of this Act, any entry—

(1) that was made after April 30, 1986, and before such 15th day; and

(2) with respect to which there would have been no duty if the amendment made by the first section of this Act applied to such entry;

shall be liquidated or reliquidated as though such amendment applied to such entry. ●

By Mr. FORD (for himself, Mr. LAUTENBERG, and Mr. MITCHELL):

S. 1043. A bill to establish a Commission on Aviation Security and Terrorism to investigate the adequacy of and compliance with aviation security procedures and Federal Aviation Administration security requirements; to the Committee on Commerce, Science, and Transportation.

#### AVIATION SECURITY AND TERRORISM COMMISSION ACT OF 1989

● Mr. FORD. Mr. President, the tragic loss of Pan American Airways flight 103 over Scotland on December 21, 1988 has focused the attention of the world on the critical importance of aviation security. The resulting loss of 259 lives aboard the Boeing 747 aircraft, as well as 11 others in the town of Lockerbie, underscores the importance of our making every effort to improve the aviation security and counterterrorism activities of the United States.

Much has been done in the intervening months by the Secretary of Transportation and the Federal Aviation Administration to enhance aviation security. However, many continue to harbor concerns that these actions are too late and that more must be done. I share the belief that we must do whatever is necessary to ward off international terrorism and protect the lives of American citizens.

On April 3 of this year, the families of the victims of Pan Am 103 support group traveled to Washington at their own expense, seeking support for an independent investigation into the circumstances surrounding the bombing of Pan Am 103. Mr. President, that effort carries on today. Family members of those who lost their lives last December continue to call for a congressional investigation to resolve unanswered questions, contentions, and allegations regarding the events leading up to and surrounding the Pan Am 103 incident. By their most recent count, the victims' families claim the support of 60 Senators for such an investigation.

As chairman of the Aviation Subcommittee, it is my belief that if an investigation is to be conducted into this tragic incident, it is best done by an independent group, comprised not only of Members of Congress, but experts in aviation safety and security as well. Such a group will ensure that all concerns related to this incident are addressed and, hopefully, resolved.

May 18, 1989

## CONGRESSIONAL RECORD — SENATE

S 5643

That is my sole motivation behind this bill. But it is my sincere hope that this effort will receive the support of the victims' family members, as well as others interested in seeing the enhancement of aviation security.

Mr. President, I'd like now to briefly summarize the major provisions of this legislation.

The Aviation Security and Terrorism Commission would be made up of nine members, including two Members of the Senate and two Members of the House of Representatives. Other members specified for the Commission include the Secretary of Transportation, the Chairman of the National Transportation Safety Board, a representative of the commercial air transportation industry, a representative from the intelligence community, and a member of the victims of Pan Am 103 family support group.

This Commission, which would have 9 months to investigate the events surrounding both the Pan Am 103 incident, as well as the 1983 shootdown of Korean Air Lines flight 007 over the Pacific Ocean, would be directed to report back to the President and the Congress on several issues related to aviation security. Specific items to be addressed include the adequacy of aviation security procedures; the adequacy of air carrier and airport compliance with FAA security requirements; the FAA's capabilities to enforce these requirements; whether aviation security procedures and requirements were adequately complied with prior to December 21, 1988; and the coordination among Federal agencies of aviation security and related counterterrorism procedures and practices involving the gathering, assessment, and distribution of intelligence. Upon completion of its investigation, the Commission is directed to make recommendations for changes in all laws, policies, and regulations relating to the security of commercial air transportation.

Importantly, this bill directs the Commission to prepare a separate report for public distribution, ensuring the needed protection of information on critical aviation security matters. This public document would therefore exclude any information that is classified or which the Commission feels would threaten the safety of air travel.

Mr. President, let me stress that this would not be an effort to duplicate or interfere with the ongoing criminal investigation into the Pan Am 103 incident. And, equally important, by proposing the establishment of this Commission, we are not calling into question the action of our European allies who have been working with the Secretary of Transportation to make improvements in aviation security. Rather, it is simply our effort to respond to the desires of those who have suffered most as a result of this incident, as well as our compelling desire to avoid its future repetition.

Mr. President, the Secretary of Transportation has said that an independent investigation of this type is not needed. Let me respond by saying that in my view, there are too many unanswered questions that need to be addressed in complete fashion before we can satisfactorily put this matter behind us.

The Aviation Security and Terrorism Commission is our effort to do that. It is also part of our overall effort to enhance aviation security. I therefore urge my colleagues support for this measure, and ask unanimous consent that the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1043

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

## SHORT TITLE

SECTION 1. That this Act may be cited as the "Aviation Security and Terrorism Commission Act of 1989".

## ESTABLISHMENT OF COMMISSION

SEC. 2. There is established a commission to be known as the Commission on Aviation Security and Terrorism (hereinafter referred to as the "Commission").

## MEMBERSHIP OF COMMISSION

SEC. 3. (a)(1) The Commission shall be composed of 9 members, who shall be as follows:

(A) The Secretary of Transportation.

(B) 2 Senators appointed by the President pro tempore of the Senate after consultation with the Majority Leader and Minority Leader of the Senate.

(C) 2 Members of the House of Representatives appointed by the Speaker of the House after consultation with the Majority Leader and the Minority Leader of the House of Representatives.

(D) The Chairman of the National Transportation Safety Board.

(E) 3 members appointed by the President, of whom 1 shall be a representative of the commercial air transportation industry, 1 shall be a representative of the intelligence community, and 1 shall be a representative of the family support group known as the Victims of Pan Am Flight 103.

(2) Appointments of members under paragraph (1)(B), (C), and (E) shall be made not later than 30 days after the date of enactment of this Act.

(b) The Commission shall elect a Chairperson from among the members of the Commission.

(c) A majority of the members of the Commission shall constitute a quorum for the transaction of business.

(d) Each member of the Commission shall be entitled to 1 vote, which shall be equal to the vote of every other member of the Commission.

(e) Any vacancy on the Commission shall not affect its powers, but shall be filled in the manner in which the original appointment was made.

## FUNCTIONS OF COMMISSION

SEC. 4. (a) The Commission shall undertake an investigation into aviation security and terrorism focusing on the events leading up to and surrounding the destruction of Pan American World Airways flight 103 on December 21, 1988, and the destruction of Korean Air Lines flight 007, which was

destroyed over the Pacific Ocean on August 31, 1983.

(b) The Commission shall submit a report not later than 9 months after the date of enactment of this Act, to the President and to the appropriate committees of the Congress. Such report shall include an assessment of—

(1) the adequacy of aviation security procedures and practices;

(2) the adequacy of the compliance of air carriers and airports with the security requirements of the Federal Aviation Administration;

(3) the ability of the Federal Aviation Administration to enforce such security requirements;

(4) whether these procedures and requirements were adequately complied with prior to December 21, 1988; and

(5) the coordination among Federal agencies of aviation security and related counterterrorism procedures and practices, including procedures and practices involving the gathering, assessment, and distribution of intelligence.

(c) In its report, the Commission shall make recommendations for changes in all laws, policies, and regulations relating to security of commercial air transportation.

(d) The Commission shall also prepare a separate version of its report for public distribution, excluding such information that is classified or the disclosure of which would threaten the safety of air travel.

## POWERS OF COMMISSION

SEC. 5.(a) The Commission may, for the purpose of carrying out the provisions of this Act, hold such hearings, sit, and act at such times and places as the Commission may find advisable.

(b) The Commission may adopt such rules and regulations as may be necessary to establish its procedures and to govern the manner of its operations, organizations, and personnel.

(c) The Commission may request from the head of any Federal agency or instrumentality such information, including classified information, subject to appropriate safeguards, as the Commission may require for the purpose of this Act. Each such agency or instrumentality shall, to the extent permitted by law and subject to the exceptions set forth in section 552 of title 5, United States Code, furnish such information to the Commission, upon request made by the Chairperson of the Commission.

(d) Upon the request of the Chairperson of the Commission, the head of any Federal agency or instrumentality shall, to the extent possible and subject to the discretion of such head—

(1) make any of the facilities and services of such agency or instrumentality available to the Commission; and

(2) detail any of the personnel of such agency or instrumentality to the Commission, on a reimbursable basis, to assist the Commission in carrying out its duties under this Act, except that any expenses of the Commission incurred under this paragraph shall be subject to the limitation set forth in section 7.

(e) The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

(f) The Commission may enter into contracts with private firms, institutions, and individuals for the purpose of conducting research necessary to enable the Commission to discharge its duties under this Act, subject to the limitation on total expenses set forth in section 7.



S 5644

## CONGRESSIONAL RECORD — SENATE

May 18, 1989

(g) Subject to such rules and regulations as may be adopted by the Commission and subject to the limitation on total expenses set forth in section 7, the Chairperson of the Commission shall, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to General Schedule pay rates, have the power to appoint, terminate, and fix the compensation of such staff personnel as the Chairperson considers necessary.

## COMPENSATION OF MEMBERS

SEC. 6. Members of the Commission shall serve without compensation, but shall be reimbursed for travel or transportation expenses under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business and engaged in the actual performance of duties of the Commission.

## EXPENSES OF COMMISSION

SEC. 7.(a) Any expenses of the Commission shall be paid from such funds as may be available to the Secretary of Transportation.

(b) The total expenses of the Commission shall not exceed \$1,000,000.

(c) Prior to the termination of the Commission pursuant to section 8, the Comptroller General of the United States shall conduct an audit of the financial books and records of the Commission to determine that the limitation on expenses has not been exceeded, and shall include its determination in an opinion to be included in the report of the Commission.

## TERMINATION OF COMMISSION

SEC. 8. The Commission shall cease to exist on the date that is 30 days after the date on which the Commission submits its report.

Mr. LAUTENBERG. Mr. President, I am pleased to join my distinguished colleague from Kentucky, Senator FORD, and our distinguished majority leader, Senator MITCHELL, in introducing this bill to establish a Commission on Aviation Security and Terrorism.

The goal of this Commission would be to get the answers to the lingering questions surrounding the tragic bombing of Pan Am flight 103 on December 21, 1988. Further, it would evaluate our Nation's ability to respond to the terrorist threats posed to civil aviation, and make recommendations for improving those efforts.

On March 17, I introduced Senate Resolution 86, which called on the President to appoint an independent commission to conduct this investigation and review. I was joined on that day by Senators FORD, HOLLINGS, BRADLEY, MIKULSKI, D'AMATO, HEINZ, SARBANES, and MOYNIHAN. There are now 19 cosponsors to Senate Resolution 86.

Unfortunately, the President has chosen not to appoint such a commission. The administration has taken the position that internal reviews will be sufficient to correct the problems that allowed the bombing of Pan Am 103 to take place, so that more American lives won't be lost to such terrorism.

By introducing this bill, we are saying we don't agree. Mr. President, I would say that, for this Senator, it is

not a matter of not taking the administration at its word; that word being the President's stated commitment to finding the answers and improving aviation security. But rather, as I've stated before, it's a question of jurisdiction. The issues involved falls under the purview of several Federal departments and agencies. Similarly, they fall under the jurisdiction of a number of different committees in the Senate and House.

It continues to be my belief that the best way to address the serious concerns about Pan Am 103 and our aviation security programs overall is through a single, comprehensive review of the facts. A commission like that outlined in the bill we're introducing today would meet that standard.

This Commission would have nine members: two each from the House and Senate; one from the Department of Transportation; one from the intelligence community; one from the National Transportation Safety Board; one from the airline industry; and one from the victims of Pan Am 103, the group of families and friends of those killed on that flight.

I believe that this composition would allow for a thorough, fair investigation. The intention would not be to repeat or overlap ongoing criminal investigations. Its goal would not be to point fingers; but rather to point out needed changes.

Mr. President, we were all touched by the tragic destruction of Pan Am flight 103 on December 21 over Lockerbie, Scotland. That bombing was an unprecedented assault on America and American citizens. It is our responsibility to find out all we can about how the bombing happened, and do what we can to prevent such attacks in the future.

But today, almost 4 months after their loved ones were so viciously taken from them, these people still don't have the answers they deserve. They don't know who knew what, when they knew it, what was done with the information, and what should have been done. Further, there continue to be unanswered questions about whether we're doing all we can to protect the lives of the millions of Americans traveling abroad each year.

On March 14, the Subcommittee on Transportation of the Senate Appropriations Committee held a hearing to look into the Pan Am 103 bombing. At that hearing, important information was withheld from the subcommittee. It was only when press reports in Europe disclosed that there had been a security bulletin issued to our air carriers because of a possible threat from terrorists that the administration admitted to the existence of such information.

It is unacceptable to have important information continue to come out piecemeal. We must get the facts, so we can improve the efficiency of our aviation security system. This requir-

les a close look at the events leading up to the bombing of Pan Am 103 and a comprehensive look at how our Government addresses the growing problem of aviation terrorism.

The bill Senators FORD, MITCHELL, and I are introducing today provides a means of getting such a review. I applaud Senator FORD for his efforts, and urge my colleagues to support this bill.

Mr. President, in closing I would note that the families and friends of those killed on Pan Am 103 continue to call for a full Senate investigation, separate from the Commission that would be established by this bill. They've been frustrated by the administration's refusal to agree to an independent review. I greatly respect their refusal to take "no" for an answer, and will continue to work on their behalf to request a separate Senate investigation, as well.

By Mr. DOLE (for himself, Mr. BOREN, Mrs. KASSEBAUM, Mr. NICKLES, Mr. BENTSEN, Mr. GRAMM, Mr. BAUCUS, Mr. BURNS, Mr. PRESSLER, Mr. WIRTH, Mr. PRYOR, and Mr. DASCHLE):

S. 1044. A bill to amend the Disaster Assistance Act of 1988 to extend disaster assistance to losses due to adverse weather conditions in 1988 or 1989 for crops planted in 1988 for harvest in 1989, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

## DISASTER ASSISTANCE ACT

Mr. DOLE. Mr. President, today I am pleased to introduce bipartisan drought disaster assistance legislation joined by Senators BOREN, KASSEBAUM, NICKLES, BENTSEN, GRAMM, BAUCUS, PRESSLER, BURNS, WIRTH, PRYOR, DASCHLE, and DOMENICI.

Last year Congress did the right thing when it passed a major disaster assistance package for producers in many States whose crops were devastated by one of the worst droughts in the past half century. The 1988 Disaster Assistance Act received broad bipartisan support, the same kind we see here today. We were able to help farmers in their time of need without adding to the Federal budget deficit, because we were able to use savings resulting from lower deficiency payments and higher market prices.

The way the program works is we have a target price, say, \$4. If you have a market price of \$3.60 and a target price of \$4.10, the deficiency payments is the difference, 50 cents a bushel in this example. With the drought of last year and the drought conditions so far this year, we have had lower crop production, and the market price in some cases can approach or exceed the target price. So, in wheat, there may be no deficiency payment, or reduced payments, and we will be able to save money even beyond what we will spend for disaster